



05-CV-05740-ORD

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AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
DEPUTY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

BAY BANK, a division of COWLITZ  
BANCORP, a state chartered bank, successor by  
merger to ASIA.EUROPE.AMERICAS BANK,

Plaintiff,

v.

ORDER OF MAGNITUDE, Official No.  
959446, its Engines, Machinery, Appurtenances,  
etc.,  
*In Rem*;

and

RAY G. WADSWORTH and LYDIA J.  
WADSWORTH, husband and wife and the  
marital community composed thereof;  
RAYMOND "BUD" A. PETERSON and  
CAROL C. PETERSON, husband and wife and  
the marital community composed thereof;  
CHARLES A. REDMAN and CHRISTY A.  
REDMAN, husband and wife and the marital  
community composed thereof; and R. BRUCE  
JOHNSTON and CAROL N. JOHNSTON,  
husband and wife and the marital community  
composed thereof,  
*In Personam*,

Defendants.

IN ADMIRALTY

Cross No. 6 - 600 11 11

(PROPOSED)

ORDER APPOINTING  
SUBSTITUTE CUSTODIAN AND  
AUTHORIZING MOVEMENT  
AND INSPECTION OF  
DEFENDANT ORDER OF  
MAGNITUDE

(PROPOSED) ORDER APPOINTING SUBSTITUTE  
CUSTODIAN AND AUTHORIZING MOVEMENT AND  
INSPECTION OF DEFENDANT ORDER OF MAGNITUDE - I

HOLMES WEDDLE & BARCOTT

609 THIRD AVENUE, SUITE 2600  
SEATTLE, WASHINGTON 98104-4011  
TELEPHONE (206) 292-8008

1. Plaintiff, Bay Bank ("Bank") by and through their attorney, John E. Casperson of  
2. Holmes Weddle & Barcott, P.C., having appeared, now make the following recitals:

3. 1. On November \_\_\_\_, 2005, the complaint herein was filed praying that the  
4. defendant vessel ORDER OF MAGNITUDE, Official No. 959446, her engines,  
5. machinery, and appurtenances etc. be condemned and sold to pay plaintiff's claims and  
6. for other proper relief.

7. 2. In the immediate future, the Clerk of this Court is expected to issue a  
8. warrant for arrest of the ORDER OF MAGNITUDE, commanding the United States  
9. Marshal for this District to arrest and take into custody the ORDER OF MAGNITUDE  
10. and to detain the same in his custody until further order of this Court respecting same.

11. 3. It is contemplated that the United States Marshal will seize the ORDER  
12. OF MAGNITUDE forthwith. Custody by the United States Marshal requires the services  
13. of one or more keepers at charges substantially in excess of those to be made by the  
14. substitute custodian alone, not including charges for moorage and the other services  
15. usually associated with safekeeping ORDER OF MAGNITUDE similar to the defendant  
16. vessel.

17. 4. The ORDER OF MAGNITUDE is currently located at John Wayne  
18. Marina in Sequim, Washington. Plaintiff is agreeable to allow Dock Street Custodial  
19. Services, Inc. ("Dock Street"), through Jeff Osborn, its Vice President, to assume the  
20. responsibility of safekeeping the ORDER OF MAGNITUDE, and Dock Street has  
21. consented to act as her custodian until further order of this Court. Dock Street has also  
22. consented to move the ORDER OF MAGNITUDE from their current location at John  
23. Wayne Marina in Sequim, Washington, to Dock Street's facility located at 5101 Ballard  
24. Avenue Northwest, Seattle, Washington, a suitable marine facility.

25. (PROPOSED) ORDER APPOINTING SUBSTITUTE  
26. CUSTODIAN AND AUTHORIZING MOVEMENT AND  
INSPECTION OF DEFENDANT ORDER OF MAGNITUDE - 2

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1.           5.       Dock Street, by certification of Jeff Osborn, Vice President, submitted  
2.       herewith, avers that it can arrange for adequate facilities and supervision for the proper  
3.       safekeeping of the ORDER OF MAGNITUDE for a charge of not more than \$25.00 per  
4.       day with an additional fee of \$500.00 for twelve months of substitute custodian insurance  
5.       and that it is the beneficiary of insurance with limits of \$1,000,000. Further, in said  
6.       certification, substitute custodian accepts, in accordance with the terms of this order,  
7.       possession of the ORDER OF MAGNITUDE, their engines, machinery, and  
8.       appurtenances etc., which is the subject of the action herein.

9.           6.       In consideration of the United States Marshal's consent to the appointment  
10.      of Dock Street as substitute custodian, plaintiff agrees to release the United States and the  
11.      United States Marshal from any and all liability and responsibility arising out of care and  
12.      custody of the ORDER OF MAGNITUDE, from the time the United States Marshal  
13.      transfers possession of the ORDER OF MAGNITUDE over to said substitute custodian,  
14.      and plaintiff further agrees to hold harmless and indemnify the United States and the  
15.      United States Marshal from any and all claims whatsoever arising out of the substitute  
16.      custodian's possession and safekeeping.

17.           THEREFORE, IT IS ORDERED that the United States Marshal for the Western  
18.      District of Washington is authorized, upon seizure of the Vessel, pursuant to Warrant for  
19.      Arrest, to surrender the possession thereof to Dock Street as substitute custodian named  
20.      herein, and that upon such surrender the United States Marshal shall be discharged from  
21.      the duties and responsibilities for the safekeeping of the ORDER OF MAGNITUDE and  
22.      held harmless from any and all claims arising whatever out of said custodial services.

23.           IT IS FURTHER ORDERED that Dock Street is appointed custodian of the  
24.      ORDER OF MAGNITUDE and shall retain the ORDER OF MAGNITUDE in its custody

25.      (PROPOSED) ORDER APPOINTING SUBSTITUTE  
26.      CUSTODIAN AND AUTHORIZING MOVEMENT AND  
INSPECTION OF DEFENDANT ORDER OF MAGNITUDE - 3

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1. for possession and safekeeping until further order of this Court and that Dock Street may  
2. move the ORDER OF MAGNITUDE from its current location to the Fisherman's  
3. Terminal, Seattle, Washington, if necessary. All costs for such movement shall be paid  
4. by plaintiff, and may, upon further order of this Court, be deemed administrative costs  
5. herein.

6. IT IS FURTHER ORDERED that the substitute custodian may permit boarding  
7. and inspection of the ORDER OF MAGNITUDE by marine surveyors, representatives of  
8. plaintiff and prospective purchasers in order to determine the ORDER OF  
9. MAGNITUDE's condition and value. All costs of such boardings and inspections shall  
10. be paid by plaintiff and may, upon further order of this Court, be deemed administrative  
11. costs herein. All persons entering on board the ORDER OF MAGNITUDE shall execute  
12. a waiver and release in the form attached hereto.

13. IT IS FURTHER ORDERED that plaintiff's attorney serve a copy of this order on  
14. the owner of the ORDER OF MAGNITUDE.

15. It is further requested that the Clerk of this Court deliver three certified copies of  
16. this order to the United States Marshal forthwith.

17. DATED this 15<sup>th</sup> day of November, 2005.

18.   
19. UNITED STATES DISTRICT JUDGE  
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26. (PROPOSED) ORDER APPOINTING SUBSTITUTE  
CUSTODIAN AND AUTHORIZING MOVEMENT AND  
INSPECTION OF DEFENDANT ORDER OF MAGNITUDE - 4


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1. Presented by:


2. HOLMES WEDDLE & BARCOTT

3.  
4.   
5. John E. Casperson, WSBA #14292  
Attorney for Plaintiff

6. RYAN, SWANSON & CLEVELAND, PLLC

7.   
8. David L. Tiff, WSBA #13213  
9. Daniel M. Caine, WSBA #368  
10. Attorneys for Plaintiff

11. Approved for Entry:

12.   
13. UNITED STATES MARSHAL  
14. Western District of Washington

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26. (PROPOSED) ORDER APPOINTING SUBSTITUTE  
CUSTODIAN AND AUTHORIZING MOVEMENT AND  
INSPECTION OF DEFENDANT ORDER OF MAGNITUDE - 5

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